

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Brandy Tate,	)	
	)	
Plaintiff,	)	C.A. No. 7:10-cv-02335-JMC
	)	
v.	)	<b>ORDER</b>
	)	
	)	
Bank of America Corporation, Kenneth	)	
Lewis, Larry Di Rita, Ronald Belle, Does	)	
1-30,	)	
Defendants.	)	
_____	)	

This matter is now before the court upon the Magistrate Judge's Report and Recommendation [Doc. 28], filed on June 15, 2011, recommending Defendants' Motion to Dismiss under Rule 12(b)(6) [Doc. 8] be denied as to Counts 3 (Libel), 4 (Slander), 9 (Title VII - disparate impact claim only), and 10 (Americans with Disabilities Act). The Report and Recommendation further recommends that the Motion to Dismiss be granted as to all other causes of action and that Defendants Kenneth Lewis and Ronald Belle be dismissed with prejudice. The Report and Recommendation sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates the Magistrate Judge's Report and Recommendation without a recitation.

**STANDARD OF REVIEW**

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or

recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

### DISCUSSION

Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. 28] and incorporates it herein. It is therefore **ORDERED** that Defendants' Motion to Dismiss under Rule 12(b)(6) [Doc. 8] is **DENIED** as to Counts 3 (Libel), 4 (Slander), 9 (Title VII - disparate impact claim only), and 10 (Americans with Disabilities Act). Furthermore, the Motion to Dismiss is **GRANTED** as to all other causes of action and that Defendants Kenneth Lewis and Ronald Belle are dismissed with prejudice.

**IT IS SO ORDERED.**

s/ J. Michelle Childs  
United States District Judge

Greenville, South Carolina  
July 11, 2011